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Sent By ECF

Hon. Jed S. Rakoff, United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 1340
New York, NY 10007

Re: The NYC District Council of Carpenters Pension Fund, et al., v. River Ave. Contracting Corp. (070CV-6450)(JSR)

Dear Hon. Judge Rakoff:

As you know, this firm represents the Defendant in the above referenced matter. Oral argument is scheduled for tomorrow at 10:00 a.m. Upon review of Plaintiffs' Opposition Papers and their cited case law, Defendant respectfully refers the Court to a Second Circuit Decision that has not been previously cited by either party. The decision is Local Union No. 38, Sheet Metal Workers' International Association v. Custom Air Systems, Inc., Quality Air Systems, Inc., 357 F.3d 266, 174 L.R.R.M. (BNA) 2187, 149 Lab.Cas. P 10,299.

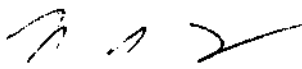
In such case, the Second Circuit held the following:

(1) employer, who failed to challenge arbitration award within the 90-days permitted by New York statute, was thereby barred from raising affirmative defense to confirmation of award, but
(2) non-signatory would not be bound to award, regardless of whether it timely challenged award under New York statute, absent finding by district court that it was alter ego of employer.

Although Your Honor did not permit the filing of reply briefs in this matter, the Defendant would be remiss in not advising the Court of relevant case law.

Thank you for your consideration.

Very truly yours,


RICHARD B. ZISKIN

CC: Andrew Grabojs, Esq. (By E-Mail & Facsimile)